

REMARKS

In the above referenced case, claims 1-52 are pending. Applicant will sequentially address the issues raised by the Examiner.

I. The 35 U.S.C. §112 Rejections

Claims 18-20 and 27-51 were rejected as allegedly being indefinite under 35 U.S.C. 112, second paragraph.

A. Claims 18, 44, and 49

Claims 18, 44, and 49 were rejected as allegedly lacking antecedent basis for the phrase “said physical sessions.”

1. Claim 18 and 44

The word “sessions” in the last element of both claims 18 and 44 refer to both the logical session (which has antecedent basis in the 7th element) and the physical session (which has antecedent basis in the 8th element). These two sessions are recited in the last element as “said logical and said physical sessions.” Thus, Applicant respectfully submits that there is no lack of antecedent basis in claims 18 and 44 and requests the Examiner to withdraw these rejections.

2. Claim 49

The phrase “said physical sessions” is not recited in claim 49. Applicant respectfully submits that the Examiner erroneously rejected this claim and requests the Examiner to withdraw this rejection.

B. Claim 47

Claim 47 was rejected as allegedly lacking antecedent basis for the term “said mobile device.” Claim 47 has been amended to correct this typographical error.

C. Claims 1 and 27

The Examiner rejected claims 1 and 27 as allegedly being indefinite for not clearly defining the relationships between “user and application registration” and “a list of frequently accessed information” or “user operation history.” Applicant respectfully traverses the rejections.

Each of these phrases has proper antecedent basis and clear support in the Specification. In addition, Applicant respectfully submits that there is no requirement under the MPEP (nor anywhere else) for requiring an Applicant to define relationships between limitations in a claim. Thus, Applicant requests the Examiner to withdraw these rejections or cite the appropriate section in the MPEP for making these rejections.

D. Claims 18 and 44

The Examiner rejected claims 18 and 44 as allegedly being indefinite for not clearly indicating the difference between “not located” and “not current.” Applicant respectfully traverses the rejections.

Based on the plain language of claims 18 and 44 (which have clear support in the Specification), the term “not located” refers, without limitation, to a requested application not being in the local cache. Similarly, based on the plain language of claims 18 and 44 (which have clear support in the Specification), the term “not current” refers, without limitation, to an application (in a local cache) that is not current (e.g., up-to-date).

Based on the foregoing, Applicant respectfully submits that these terms are not indefinite and requests the Examiner to withdraw these rejections.

II. The 35 U.S.C. §103 Rejections

A. Claims 1-11 and 27-37

Claims 1-11 and 27-37 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Rowley, U.S. Patent No. 5,999,740 (“ROWLEY”) in view of

Byrne et al., U.S. Patent No. 6,539,382 (“BYRNE”), and further in view of the Specification. Applicant respectfully traverses the rejections.

1. Claim 1

It is axiomatic that the combination of cited references in a §103 rejection must disclose every element in the rejected claim. MPEP 2143.03. Claim 1 recites a method for intelligently providing application and data in a mobile device system, comprising the steps of:

- collecting user operation history from at least one user;
- generating user and application registration information;
- generating a list of frequently accessed information based on said user operation history;
- selectively caching information at a mobile device and a gateway based on said list of frequently accessed information, said information including application or data;
- updating said information at said mobile device and said gateway; and
- synchronizing said user operation history and said user and application registration information among a plurality of gateways.

The Examiner agreed that ROWLEY does not teach at least the claimed steps of “collecting user operation history from at least one user; generating a list of frequently accessed information based on said user operation history; and selectively caching information at a mobile device and a gateway based on said list of frequently accessed information, said information including application or data” as recited in claim 1. In a previous Office Action, Examiner also agreed that ROWLEY does not teach the step of “synchronizing said user operation history and said user and application registration information among a plurality of gateways” as recited in claim 1.

Further, the Examiner acknowledged that neither ROWLEY nor BYRNE discloses or suggests a gateway. The Examiner relied on the background section of the Specification for disclosing the existence of gateways.

Based on the arguments below, Applicant respectfully submits that the Examiner applied impermissible hindsight reconstruction when combining the cited

references (i.e., ROWLEY & BYRNE) with the Specification and that there is no motivation to combine the same.

a. Impermissible Hindsight Reconstruction

Improper hindsight reasoning should not be applied in support of an obviousness rejection. MPEP 2145.X.A. Hindsight reasoning is proper if it only takes into account knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made, but not knowledge gleaned from applicant's disclosure. Id.

The Examiner has failed to point out where in the cited references (i.e., ROWLEY and BYRNE) the suggestion or teaching of the claimed invention (i.e., selectively caching at both a mobile device and a gateway, etc.) may be found. The Examiner relied instead on the conclusory statement that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Rowley, Byrne and APA because APA's gateways would provide the connection for communication between mobile devices and servers." Both ROWLEY and BYRNE fail to disclose or suggest caching on mobile devices or gateways. The only reference to a gateway comes from the Applicant's Specification itself. However, the reference to a gateway does not suggest any combination with the cited reference. Thus, Applicant respectfully submits that the Examiner applied improper hindsight reconstruction based on the Applicant's Specification in support of the obviousness rejection. If the Examiner believes otherwise, the Examiner is requested to provide an Affidavit so stating in accordance with 37 CFR 1.104(d)(2) and MPEP 2144.03.

b. No Motivation to Combine

"The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination." MPEP 2143.01. The Examiner has failed to point out any specific portion in the cited references (i.e., ROWLEY and BYRNE) that suggests the desirability of combining their teachings to gateways. The mere fact that gateways exist does not make the cited references combinable with gateways.

Thus, Applicant respectfully submits that the Examiner has failed to show that there is any motivation to combine the cited references with gateways. If the Examiner believes that these references do suggest the desirability of the combination, the Examiner is requested to cite the specific portions in the references in the next office action. If the Examiner is relying on personal knowledge for finding a motivation to combine, the Examiner is requested to provide an Affidavit so stating in accordance with 37 CFR 1.104(d)(2) and MPEP 2144.03.

c. BYRNE Does Not Disclose or Suggest Multiple Steps
Recited in Claim 1

Even if the Examiner's suggested combination is proper, the combination fails to disclose or suggest multiple steps in Claim 1. As explained above, the Examiner acknowledged that ROWLEY fails to disclose multiple steps in claim 1 and the Examiner is relying on BYRNE for allegedly disclosing those steps.

i. Overview of BYRNE

BYRNE discloses a caching mechanism to organize and populate a Lightweight Directory Access Protocol (LDAP) implemented in a directory server having a back-end store. BYRNE, col. 2, lines 39-40 and col. 3, lines 8-9.

LDAP server is a computer having a memory partitioned into a first cache and a second cache. BYRNE, col. 5, lines 17-19. The first cache is referred to as a Type I cache, and the second cache is referred to as a Type II cache. BYRNE, col. 5, lines 19-21. A user's data access history is stored in the Type I cache. BYRNE, col. 5, lines 59-60. The entries retrieved from the back-end store as a result of a user's queries are stored in the Type II cache. BYRNE, col. 5, lines 60-62. By implementing the Type I and Type II caches in the directory service, repetitive search queries are handled without resorting to the back-end store. BYRNE, col. 5, lines 62-65.

ii. BYRNE Does Not Disclose or Suggest the Step
of Selectively Caching Information at a Mobile
Device and a Gateway

Claim 1 recites the step of “selectively caching information at a mobile device and a gateway based on said list of frequently accessed information” The Examiner cited Col. 5, lines 49-55 of BYRNE as allegedly disclosing this step.

Col. 5, lines 49-55 of BYRNE discloses cache replacement policies that can be implemented by the LDAP server to replace entries on the server cache. The Examiner concedes that BYRNE does not disclose a gateway. In addition, BYRNE also does not disclose a mobile device.

Thus, BYRNE cannot disclose or suggest selectively caching at a mobile device and a gateway. Should the Examiner believe otherwise, Applicant respectfully requests the Examiner to cite the specific portion in BYRNE for disclosing this step.

iii. Neither ROWLEY nor BYRNE Discloses or Suggests the Step of Updating Said Information at Said Mobile Device and Said Gateway

Claim 1 also recites the step of “updating said information at said mobile device and said gateway.” The Examiner did not cite any specific portion in ROWLEY or BYRNE for disclosing this step.

BYRNE does not disclose or suggest a mobile device or a gateway. Thus, it cannot disclose or suggest the step of updating information at a mobile device and a gateway. Should the Examiner believe otherwise, Applicant respectfully requests the Examiner to cite the specific portion in BYRNE for disclosing this step.

iv. BYRNE Does not Disclose or Suggest the Step of Synchronizing Said User Operation History and Said User and Application Registration Information among a Plurality of Gateways

Claim 1 also recites the step of synchronizing user operation history and user and application registration information among a plurality of gateways. The Examiner did not cite any specific portion in ROWLEY or BYRNE for disclosing this step.

BYRNE does not disclose or suggest any gateway. Thus, it cannot disclose or suggest the step of synchronizing user operation history and user and application registration information among a plurality of gateways. Indeed, BYRNE does not disclose any synchronization at all.

d. Conclusion

Based on all of the foregoing, Applicant respectfully submits that claim 1 is in condition for allowance.

2. Claims 2-17

Claims 2-17 are dependent upon claim 1 and therefore are also in a condition for allowance.

3. Claim 27

Independent claim 27 recites a computer program product comprising logic code that, when executed, perform the steps as recited in claim 1. Based on Applicant's foregoing arguments with respect to claim 1, claim 27 is patentable over ROWLEY in view of BYRNE and is in condition for allowance.

4. Claim 28-43

Claims 28-43 are dependent on claim 27 and are also in condition for allowance.

B. Claims 18, 20, 44, and 46

Claims 18, 20, 44, and 46 were rejected under 35 U.S.C. §103(a) as unpatentable over McGuire et al., U.S. Patent No. 6,493,871 B1 ("McGUIRE") in view of DOI. Applicant respectfully traverses the rejections.

1. Claim 18

Claim 18 recites a method for generating application requests at a mobile device, comprising the steps of:

- determining whether a requested application is located in a local cache;
- determining whether said requested application in said local cache is current;
- determining whether an update schedule is executed for said requested application in said local cache;
- generating an application download request if said requested application is not located in said local cache;
- generating an application update request if said requested application in said local cache is not current;
- generating an application status check request if said update schedule is not executed;
- opening a logical session;
- opening or reusing a physical session connected to a gateway; and
- sending said application download request, said application update request, or said application status check request to said gateway via said logical and said physical sessions.

The Examiner agreed that McGUIRE does not teach the claimed steps of “opening a logical session,” and “opening or reusing a physical session connected to a gateway” as recited in claim 18. However, the Examiner asserted that McGUIRE disclosed the other steps recited in claim 18. Based on the arguments below, Applicant respectfully disagrees.

a. McGUIRE Does Not Disclose the Step of Determining Whether an Update Schedule Is Executed for the Requested Application in the Local Cache

Claim 18 recites the step of “determining whether an update schedule is executed for said requested application in said local cache.” The Examiner cited col. 8, lines 7-10 in McGUIRE as allegedly disclosing this step.

Neither the cited portion nor anywhere else in McGUIRE discloses or suggests any “update schedule” according to which an update is executable at a scheduled time. Thus, McGUIRE cannot disclose or suggest the step of determining whether an update schedule is executed.

b. McGUIRE Does Not Disclose or Suggest the Step of Generating an Application Status Check Request If the Update Schedule Is Not Executed

Claim 18 also recites the step of “generating an application status check request if said update schedule is not executed.” As shown in the previous section, McGUIRE does not teach or suggest any “update schedule.” It follows from principles of logic that McGUIRE also cannot disclose or suggest any step that refers back to the “update schedule.” Hence, McGUIRE cannot disclose or suggest this step.

The Examiner cited col. 7, lines 60-64, col. 7, lines 50-55, col. 12, lines 26-30, col. 9, lines 9-38, and col. 14, lines 30-41 for allegedly disclosing this step. Applicant will sequentially address each cited portion of McGUIRE.

Col. 7, lines 60-64 of McGUIRE discloses the flexibility a server may have for choosing an update file that is the optimal response to a user’s update request. Specifically, McGUIRE discloses sending a patch for an existing version or sending an entirely new version. *Id.* In contrast, claim 18 recites generating an application status check request if an update schedule is not executed. This cited portion of McGUIRE does not disclose or suggest either generating an application status check request or any update schedule.

Col. 7, lines 50-55 of McGUIRE discloses using a setup program on a client computer to obtain files in a download reply from a server and update existing files on the client computer to generate required installation files. The revised version then can be installed on the client computer. *Id.* In contrast, claim 18 recites generating an application status check request if an update schedule is not executed. Thus, this cited portion of McGUIRE also does not disclose or suggest either generating an application status check request or any update schedule.

Col. 9, lines 9-38 of McGUIRE discloses a process for determining whether a file should be added to the “needed files list” by calculating and comparing hash values of existing and new versions. In contrast, claim 18 recites generating an application status check request if an update schedule is not executed. Thus, this cited portion of McGUIRE does not disclose or suggest either generating an application status check request or any update schedule.

Col. 14, lines 30-41 of McGUIRE discloses a process for providing data security of downloaded files. Applicant respectfully submits that this cited portion is irrelevant to the step of generating an application status check request if an update schedule is not executed.

Based on the foregoing, Applicant respectfully submits that McGUIRE does not disclose or suggest the step of “generating an application status check request if said update schedule is not executed” as recited in claim 18 and this claim is in condition for allowance.

2. Claims 19-20

Claims 19-20 are dependent upon claim 18 and therefore is also in condition for allowance.

3. Claim 44

Independent claim 44 recites a computer program product comprising logic code that, when executed, perform the steps as recited in claim 18. Based on Applicant’s foregoing arguments with respect to claim 18, Applicant believes that claim 44 is patentable over McGUIRE in view of DOI and is in condition for allowance.

4. Claim 45-46

Claims 45-46 are dependent on claim 44 and are also in condition for allowance.

C. Claims 21-25 and 47-51

Claims 21-25 and 47-51 were rejected under 35 U.S.C. §103(a) as unpatentable over McGUIRE in view of BYRNE. Applicant respectfully traverses the rejections.

1. Claim 21

Claim 21 recites a method for processing requests at a gateway, comprising the steps of:

- parsing a request, said request including user operation history;
- building a first intelligent strategy based on said parsing, said first intelligent strategy including at least one database access request;
- accessing a gateway database based on said first intelligent strategy;
- constructing a response based on said accessing; and
- sending said response to a mobile device.

In the present and previous Office Actions, the Examiner agreed that McGUIRE does not teach the “user operation history” or the “gateway” as recited in claim 21. The Examiner relied on BYRNE for allegedly disclosing these limitations. Based on the arguments below, Applicant respectfully submits that BYRNE does not disclose or suggest at least one step of claim 21.

a. BYRNE Does Not Disclose or Suggest a Gateway

Claim 21 recites the step of “accessing a gateway database based on said first intelligent strategy.” The Examiner acknowledged that BYRNE does not disclose or suggest a gateway. Therefore, BYRNE cannot disclose or suggest a step that refers to a gateway database.

Based on the foregoing, Applicant respectfully submits that claim 21 is in condition for allowance.

2. Claims 22-25

Claims 22-25 are dependent upon claim 21 and therefore are also in a condition for allowance.

3. Claim 47

Independent claim 47 recites a computer program product comprising logic code that, when executed, perform the steps as recited in claim 21. Based on

Applicant's foregoing arguments with respect to claim 21, Applicant believes that claim 47 is patentable over McGUIRE in view of BYRNE and is also in condition for allowance.

4. Claim 48-51

Claims 45-46 are dependent on claim 44 and should also be in condition for allowance.

D. Claims 26 and 52

Claims 26 and 52 were rejected under 35 U.S.C. §103(a) as unpatentable over McGUIRE. Applicant respectfully traverses the rejections.

In a previous Office Action, the Examiner agreed that McGUIRE does not teach the step of "periodically updating said application to obtain an updated application" and does not teach a mobile device system as recited in claims 26 and 52.

In the present Office Action, the Examiner has not cited any other reference for disclosing at least the missing step and limitation in McGUIRE expressly acknowledged by the Examiner. Therefore, the Examiner has failed to establish a prima facie case of obviousness against claims 26 and 52. Applicant respectfully requests the Examiner to withdraw the rejections and allow these claims.

III. Conclusion

In view of the foregoing, it is respectfully submitted that the application is now in a condition for allowance. Should the Examiner believe that a telephone interview would help advance the prosecution of this case, the Examiner is requested to contact the undersigned attorney.

Respectfully submitted,

By:



Roxana H. Yang
Registration No. 46,788

PatentEsque Law Group, LLP
P.O. Box 400
Los Altos, CA 94023
(650) 948-0822